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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/849,737	05/19/2004	Reimund Becht	P-US-PR 1099	8574
7590 01/18/2007 Michael P. Leary Black & Decker Corporation Mail Stop TW199 701 E. Joppa Rd. Towson, MD 21286			EXAMINER TRUONG, THANH K	
			ART UNIT 3721	PAPER NUMBER
SHORTENED STATUTORY PERIOD OF RESPONSE		MAIL DATE	DELIVERY MODE	
3 MONTHS		01/18/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary

Application No.

10/849,737

Applicant(s)

BECHT ET AL.

Examiner

Thanh K. Truong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-35 is/are pending in the application.
- 4a) Of the above claim(s) 22-28 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21, 29-31 and 33-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5-22-06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Claims 15-21 & 29-35, and the Species 1 (the embodiment of Figure 2) in the reply filed on November 14, 2006 is acknowledged. However, claim 32 recites the limitation "vibration damping element is a spring" which is not the embodiment of Figure 2, and therefore claim 32 is being excluded from the elected claimed invention.

2. Claims 22-28 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on November 14, 2006.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 15-21, 29, 31, 33 and 34 are rejected under 35 U.S.C. 102(b) as being anticipated by Chang (5,273,120).

Chang discloses an apparatus comprising:

a power tool housing (3) that includes member (25) disposed within the housing and is extending along axis (15) at the distal end of the housing (figures 1 & 2);

a handle (the handle or the handle assembly is construed to include the member portion (5) on the left and the member portion (7) on the right, these portions together make up a handle or handle assembly as shown in Figures 1 & 2);

a first handle connecting member (13) (on the right hand side of figures 1 & 2) having a first axis (15) (on the right hand side of figures 1 & 2) – the first handle connecting member includes member (28) disposed within the handle connecting member;

a second handle connecting member (13) (on the left hand side of figures 1 & 2) having a second axis (15) (on the left hand side of figures 1 & 2) – the second handle connecting member includes member (28) disposed within the handle connecting member – the second axis non-parallel to the first axis (axis (15) of each handle connecting member forms an angle (36) with the longitudinal axis (40) of the housing, thus the first axis and the second axis are not parallel to each other);

a first vibration damping element (27) (on the right hand side of figures 1 & 2) between the first handle connecting member (13) and the power tool housing (as explained above, member (25) is construed as portion of the housing of the power tool); and

a second vibration damping element (27) (on the left hand side of figures 1 & 2) between the second handle connecting member (13) and the power tool housing; and

wherein the handle (or the handle assembly as mentioned above) is connected to the power tool housing via the first handle connecting member and the second handle connecting member.

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Chang further discloses:

wherein the first vibration damping element and the second vibration damping element are made of an elastomeric material (column 2, lines 27-28 and column 4, lines 3-4 (claim 4));

wherein the first (and second) vibration damping element is a first (and second) annular member defining a first (and second) aperture having a first (and second) aperture axis (column 2, lines 19-20);

wherein the first (and second) handle connecting member (28) extends coaxially through the aperture of the first (and second) vibration damping element (as explained above, member (28) is construed as the portion of the handle connecting member);

wherein the first aperture axis and the second aperture axis are non-parallel; and

wherein the elastomeric element is substantially cylindrical and defines an annulus having an annulus axis substantially coaxial with one of the first axis of compression and the second axis of compression;

an intermediate portion located between the first vibration damping element and the second vibration damping element (the middle portion of the handle assembly).

5. Claims 29-31 and 33-35 are rejected under 35 U.S.C. 102(b) as being anticipated by Minamidate (EP 0 156 387).

Minamidate discloses an apparatus (Figure 13) comprising:

a first vibration damping element (50) having a first axis of compression (the axis along the member portion (49));

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a second vibration damping element (45) having a second axis of compression nonparallel to the first axis of compression (the axis along the member portion (44));

a handle (or handle assembly is construed to include member portion 44, 47, 49, 51 and 52) connected to the power tool housing via the first vibration damping element and the second vibration element.

Minamitate further discloses:

wherein the first axis of compression is substantially perpendicular to the second axis of compression (Fig. 13);

wherein one of the first vibration damping element and the second vibration element includes an elastomeric element;

wherein the elastomeric element is substantially cylindrical and defines an annulus having an annulus axis substantially coaxial with one of the first axis of compression and the second axis of compression;

an intermediate portion (47) located between the first vibration damping element and the second vibration damping element; and

wherein the handle (member portion 49, 51, 52) is connected to the intermediate portion (47) via the first vibration damping element (50), and the intermediate portion is connected to the power tool housing via the second vibration damping element (45).

Response to Arguments

6. Applicant's arguments filed May 22, 2006 (regarding the reference Chang (5,273,120)) have been fully considered but they are not persuasive.

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7. In response to the Applicant's argument that:

In Chang '120, however, the first handle connecting member (13 - on the right hand side) and the second handle connecting member (13 - on the left hand side) connect two different handles (the right and left side handles) to the tool housing. Therefore, in order to distinguish the subject claims over Chang '120, independent claims 15 and 22 are currently amended to further require that "the handle is connected to the power tool housing via the first handle connecting member and the second handle connecting member."

this is not found persuasive, because as discussed above in paragraph 4 of this office action, the handle or the handle assembly is construed to include the member portion (5) on the left and the member portion (7) on the right, these portions together make up a handle or handle assembly as shown in Figures 1 & 2, and therefore the handle is connected to the power tool housing via the first handle connecting member and the second handle connecting member as recited in the present claimed invention.

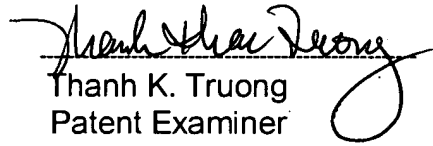
Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Thanh K. Truong
Patent Examiner
January 15, 2007.